

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE TWENTY NINTH DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE N.V. RAMANA

WRIT PETITION NO : 24650 of 2004

Between:

B. Satish, S/o. Rama Chandra Naidu,
R/o. 19-3-7A, Renigunta Road, Tirupathi.

..... PETITIONER

AND

- 1 The Government of Andhra Pradesh, Rep. by its Principal Secretary,
Department of Municipal Administration, Secretariat, Hyderabad.
- 2 The Municipal Commissioner, Tirupathi Municipality, Tirupathi.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue writ, order or direction more particularly one in the nature of Writ of Mandamus, declaring the action of the 2nd respondent in laying of the Road in my land of the petitioner in Ward No. 19, in Sy.No. 3/2C-2, to an extent of 272 sq. yards/2,448 Sq. Feet situated at Uppangi Harijanawada, Tirupathi without following due process of law, as bad, arbitrary, and contrary to law and also offends Art. 14, 21 and 300-A of the Constitution of India.

For the Petitioner: MS.M.VIDYAVATHI, Advocate

For the Respondent No.1: GP for General Administration

**For the Respondent No.2: MR.S.I.NEWTON, SC for Tirupathy
Municipality**

The Court at the stage of admission made the following :

ORDER:

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Heard the learned counsel for the petitioner, learned Government Pleader for General Administration and the learned Standing Counsel for second respondent-Municipality and with their consent the writ petition is disposed of at the stage of admission.

The petitioner claims to be owner of 272 square yards of land situated in Survey No.3/2C-2 of Uppangi Harijanawada, Tirupathi. His grievance is that without initiating land acquisition proceedings and without paying any compensation to him, the second respondent-Municipality is trying to lay a road through his land, which is illegal and contrary to law.

A Division Bench of this Court dealing with large number of cases (W.P. No.21198 of 1997 and batch, dated 03-02-1998) where for the purpose of road widening, the Revenue, Panchayat Raj and Municipal authorities sought to demolish the houses or structures abutting the road, issued certain guidelines which are as under:

1. Where a property is required for public purpose viz., widening of roads or for any other purpose, the authorities straightaway cannot take law into their hands and jump into the premises, dispossess or evict the occupants or demolish the property.
2. If the authorities concerned want to take action for eviction/dispossession of the occupants or demolition, they shall issue 60 days' prior notice notifying as to the nature of the property, the property to whom it belongs and the proposed action calling for explanation/objections if any from the occupants. On receipt of such objections, if there is any objection as to the ownership of the property, the authorities

should determine the extent of encroachment of unauthorized occupation and also determine whether the property in question belongs to Government/any other local self Government or authority or the occupants and pass appropriate orders within three months from the date of receipt of the objections, after affording an opportunity of being heard to the occupants.

3. In case where demolition of private property has already been made, the authorities shall determine the damages on the basis of the assessment to be made by the Engineer of the Roads and Buildings Department and disburse the amount of damages quantified forthwith.
4. If the demolition is in respect of local bodies' Government property, the question of damages does not arise. In such an event, the occupant shall be entitled to remove the material used for the construction.
5. In case of demolition of private property, the authorities concerned shall determine the loss caused to the occupants on the basis of the assessment to be made by the Engineer of R & B Department and on such assessment of damages, the concerned authorities shall take appropriate steps to disburse the amount quantified forthwith.
6. If there is any claim for grant/assessment of the property, the concerned authorities shall consider the same in accordance with law taking into consideration the eligibility and the entitlement of occupants, after making enquiry and till such claim is decided, there shall be status-quo obtaining as on today regarding the structures.

The learned Government Pleader for General Administration appearing on behalf of the first respondent and the learned Standing Counsel for the second respondent-Municipality do not dispute the legal position.

Accordingly, the writ petition is disposed of directing the respondents to follow the guidelines issued in the above mentioned judgment. No costs.

N.V. RAMANA, J

Date: 29-12-2004

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To

1 The Principal Secretary, Government of Andhra Pradesh, Department of Municipal Administration, Secretariat, Hyderabad.

2 The Municipal Commissioner, Tirupathi Municipality, Tirupathi.

3 Two CCs. to the Government Pleader for General Administration, High Court Buildings, A.P., Hyderabad (OUT).

4 Two CD copies.